states, the COS approach to rebranding would require 10-16 months to complete. According to New York Telephone, that would require the creation of 40 COS codes for each reseller,[1] and these codes will have to be built into every central office where a reseller requests service, adding switch memory where required, and installing trunk facilities.

The AIN approach would be more efficient, New York Telephone indicates, because it will require only 40 class of service codes for all resellers, thereby conserving local switching resources. Trunking investment would be the same under either solution. New York Telephone estimates 12-18 months to implement this solution.

AT&T agrees with New York Telephone that the AIN approach offers a preferred, administratively easier long-term solution. However, AT&T questions New York Telephone's estimate of how long it will take to provide customized rerouting and rebranding using the AIN approach. AT&T has provided evidence indicating that Bell Atlantic Corporation will provide this capability for the vast majority of its switches by June 1997. AT&T proposes that New York Telephone be permitted to select the approach it prefers, and that: (1) If it selects the COS approach, it would have until January 1, 1997 to implement the solution for unbundled elements (rerouting) and until June 1, 1997 to implement the solution for resale (including rebranding); (2) If it elects to use the AIN triggers, it would have until September 1, 1997 to complete the customized routing and rebranding capabilities.

We note that, although the parties have agreed that the AIN approach provides the preferred solution to customized

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to New York Telephone this could be accomplished within 10 weeks.

[1] For unbranding, only one set of COS codes would be required for all resellers.

rerouting and rebranding, neither the relative implementation costs of the two approaches nor the demand for customized routing by resellers other than AT&T have been fully addressed on the record in this arbitration proceeding. We are inclined to agree with AT&T, therefore, that the choice of approach should be left to New York Telephone.

As to the question of the reasonable amount of time to be allowed for implementation, we agree with AT&T's proposal, with slight modification. The interconnection agreement submitted for our approval must include New York Telephone's election of approach. If the AIN approach is selected, it must be completed by September 1, 1997. If the COS approach is selected, then the solution for unbundled elements must be completed by March 1, 1997, and the provision of customized routing and rebranding for resellers must be completed by June 1, 1997. We conclude that these deadlines should provide New York Telephone with ample time in the circumstances.

4. The Customized Rerouting Price

New York Telephone plans to develop charges to recover the development and implementation, as well as operating expenses, associated with customized routing. Ongoing costs would be recovered through a monthly recurring charge, and development and implementation costs would be recovered over time on a per-line basis from customized routing subscribers. New York Telephone agrees to compute costs in accordance with a Total Element Long Run Incremental Cost (TELRIC) methodology. Complete cost data is not available to date, New York Telephone points out, because the selection of the approach to customized routing has not been made and the solution has not been completed in any event. In short, New York Telephone and AT&T agree that price development for customized routing is premature.

New York Telephone argues that we should examine the matter in the normal rate-setting fashion, following the filing

of proposed tariffs. AT&T, however, would treat customized routing as a resale "cost onset," and treat the issue in our ongoing resale proceeding.

Customized routing is a new and previously unexamined network feature. It is an element, not an onset associated with resale, and certainly not similar to the kinds of cost onsets associated with developing and implementing wholesale service functions which we are studying in that context. For now, the only elements being considered in the resale proceeding are those that have been previously identified. The choice of approach will not be made now, since no charge will be imposed until mid-1997 at the earliest.

Directory Branding

AT&T argues that New York Telephone should be required to remove its name from the cover of its telephone directories, or in the alternative permit the names of competitors to be placed on the cover as well.

New York Telephone responds that this request is beyond the scope of this arbitration, which deals only with the Act's §251 interconnection, unbundled access, and resale requirements. Moreover, New York Telephone observes, it is the NYNEX Information Resources Company (NIRC) and not New York Telephone that publishes telephone directories. AT&T responds that this Commission has jurisdiction to order such a requirement.

Regardless of the scope of our jurisdiction, the issue is not one properly presented for arbitration, for it is beyond the scope of the issues prescribed for arbitration under §§ 251 and 252 of the Act. AT&T's proposal will not be considered in this arbitration decision.

Resale of PAL Lines

A Public Access Line (PAL) is a service provided by New York Telephone to Independent Public Payphone Providers (IPPPs).

New York Telephone acknowledges that PAL lines are provided at retail and therefore must be made available to resellers at wholesale rates. New York Telephone argues, however, that AT&T should not be permitted to purchase PAL lines for resale. According to New York Telephone, AT&T in this context is an IPPP, not a telecommunications carrier, because AT&T has an IPPP subsidiary and, therefore, is itself acting as an IPPP in this context. "AT&T," New York Telephone complains, "will be able to avoid paying the same tariffed rate which other IPPPs must pay, and will gain substantial competitive advantage in the public payphone service market over IPPPs that are not affiliated with telecommunications carriers."[1]

In response, AT&T acknowledges that the FCC's order prohibits purchase of PAL lines at wholesale discount rates for use, and that IPPPs are not "telecommunications carriers" entitled to obtain PAL lines at wholesale rates.[2] However, AT&T posits, selling PAL service to its subsidiary would not make it an IPPP, nor would its subsidiary gain a competitive advantage as claimed by New York Telephone. Rather, AT&T argues, it would not sell to its affiliates at any rate except the rate at which it sells to all of its end use customers. In short, its affiliate and all other customers would be treated the same. Indeed, AT&T says, the Act's prohibition of unreasonable limitations on resale[3] prevents it from pursuing any other course of action.

AT&T's perspective is persuasive. It is entitled to purchase PAL lines for resale as a telecommunications carrier. Thus NYT may not decline to sell PAL lines for resale to AT&T, so long, of course, as AT&T lives up to its obligation to offer its

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[1] New York Telephone's Initial Brief on Law and Policy, pp. 24-25.

[2] Order, ¶¶ 875 and 876.

[3] 47 U.S.C. §251(b)(1).

resold PAL services to IPPs generally, including its own subsidiaries, on a non-discriminatory basis.

AT&T End-User Customer Data

AT&T asserts that New York Telephone, as a wholesale provider of resale services, will have available to it substantial amounts of AT&T customer usage data obtained through its role as AT&T's network provider. AT&T argues that this information is legally AT&T's property, and that it is highly detailed and sensitive information. AT&T asks that appropriate measures be imposed to prevent New York Telephone from using such information for its competitive gain. The rule AT&T would impose is that New York Telephone's retail marketing division not be allowed access to any AT&T proprietary information, whether aggregated or disaggregated, under any circumstances.

In response, New York Telephone states that the use of individual customer information is not at issue here, and that the Act[1] prescribes considerable restrictions on the use of such information with which New York Telephone must, of course, comply. AT&T, however, would have this Commission go beyond the statute and prescribe limits on the use of aggregated information that are not in the Act. The Act, New York Telephone notes, provides that a LEC may use aggregate customer information if it "provides the information to other carriers or persons on reasonable and nondiscriminatory terms and conditions."[2]

We are not persuaded that AT&T's request is reasonable, and we decline to adopt it.

ELEMENTS AND COMBINATIONS

Connections Other Than NID-to-NID

[1] 47 U.S.C. §222(c)(1).

[2] 47 U.S.C. §222(c)(3).

A network interface device (NID) is the point of demarcation (a connecting box or enclosure) between the local loop and a customer's inside wiring. New York Telephone must permit AT&T and other carriers to deploy their local loops via connection to New York Telephone's NIDs. There is an issue as to whether New York Telephone need only provide a NID-to-NID connection--a connection in which AT&T terminates its loop in its own NID and the NID is interconnected to New York Telephone's NID via a cross-connect device (the "network interface device network element")[1]--or whether AT&T is entitled to connect its loops directly to New York Telephone NIDs when there is spare capacity on those NIDs.

An initial legal question is whether this issue can be considered in the arbitration. AT&T argues that the issue is available for arbitration because it has not been conclusively decided by the FCC. New York Telephone, however, argues that the FCC specifically declined to require incumbent LECs to grant direct access to existing incumbent LEC NIDs, and therefore, absent evidence in this proceeding warranting a departure from the FCC's scheme, its reasoning should be adopted here.

Specifically, the FCC held that: "We do not require an incumbent LEC to permit a new entrant to connect its loops directly to the incumbent LEC's NID."[2] However, the FCC went on to point out that its record had conflicting evidence on the technical feasibility of direct connection to incumbent LEC NIDs. Thus, the FCC concluded: "States should determine whether direct connection to the NID can be achieved in a technically feasible manner in the context of specific requests by competitors for direct access to incumbent LECs' NIDs."[3]

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[1] 47 CFR §51.319(b)(1).

[2] Order, ¶ 394.

[3] Order, ¶ 396.

The issue is properly raised in this arbitration. AT&T requests direct connection only where there is spare capacity on a New York Telephone NID, and New York Telephone does not argue that direct connection would be technically infeasible in such instances. Indeed, we conclude that direct connection is technically feasible. Accordingly, AT&T should be permitted to request direct connection to New York Telephone's NIDs when there is spare capacity. However, because there is always some risk of harm to customers when a technician performs work on the network, a request for a direct connection should be made to New York Telephone; New York Telephone may permit only its own technicians to perform the necessary work, and may assess AT&T the appropriate time and materials charges.

AIN Triggers

The issue here is whether federal law requires New York Telephone to provide AIN interconnection to AT&T, namely, to give AT&T the ability to create new capabilities for itself by providing the ability to enable AIN triggers to launch inquiries into AT&T or third party databases.

AT&T argues that New York Telephone is required to provide its AIN triggers, on an unbundled basis, on request. New York Telephone concedes this, and indicates its willingness to open latent triggers, on a case-by-case basis, upon request, and to work with AT&T and the industry as a whole to develop new triggers. However, New York Telephone is opposed to, and argues that federal law does not require, providing AT&T with the ability to interconnect New York Telephone's AIN system with AT&T's or other third parties' databases. New York Telephone points out that the FCC's rulings have not imposed such a requirement,[1] and argues further that the FCC has been studying

[1] Order, ¶¶ 484-489.

operation of and accessibility to AIN triggers for six years[1] without reaching firm conclusions on what constitutes appropriate interconnection to its AIN system.

For its part, AT&T argues that federal law does not prohibit us from addressing all possible uses of AIN triggers, subject only to technical feasibility. A request for a specified AIN trigger and service, AT&T submits, should be permitted through a service or change order, subject to the standards New York Telephone must meet in responding to orders for local switching elements.

On the issue of using New York Telephone's AIN triggers to access its databases, AT&T argues that the technology for such access is available and has been satisfactorily tested in a trial conducted by AT&T and BellSouth. AT&T has committed to working with New York Telephone to comprehensively test the process and proposed applications, and asks us to direct New York Telephone to participate in such testing. New York Telephone, though not arguing that it is not technically feasible, expresses the concern that the access to AIN requested by AT&T would relinquish control of its network to third parties, raising security and network reliability issues that cannot be adequately addressed through existing technical or procedural mediation mechanisms. To the extent we wish to go beyond the FCC's reservations in this area, New York Telephone posits, we should initiate a detailed inquiry into the technical feasibility of the requested access. It is imperative, New York Telephone continues, that it be granted the right to extensively test and certify every AIN application, whether it be its own or that of any interconnecting carrier.

We conclude that granting AT&T the ability to access its own databases via New York Telephone switches will likely enhance competition and produce benefits for AT&T's customers

[1] CC Docket No. 91-346.

that might otherwise not be available if it was limited to the applications contained in New York Telephone's database. Thus, AT&T should be afforded the access it desires. AT&T's presentation, however, has not dispelled the concerns expressed by New York Telephone about the potential for either inadvertent or malicious harm to the security and reliability of its network as messages are returned into its network from AT&T or other third party databases. Thus, we agree with New York Telephone that, prior to actual AIN interconnection with AT&T's database, it must be permitted a rigorous testing and certification process, a process developed specifically for this application; AT&T has agreed to such a process.

Beyond this process, New York Telephone expresses concerns about detecting messages that "are inappropriate or that are otherwise potentially damaging to the overall network, specific network elements, or individual services,"[1] and it believes it should be allowed to develop "real time" mediation functions, which do not currently exist, for the protection of its network. According to AT&T, an additional mediation device is unnecessary, because there is sufficient mediation functionality already in the SS7 network, in the switches themselves, and even in the third party databases. We expect the parties to assess the need for additional mediation during the rigorous certification and testing process we have adopted.

Mutual Compensation

Mutual compensation refers to the payments between New York Telephone and AT&T for completing each other's local calls. New York Telephone argues that services should be paid for as

[1] New York Telephone's Reply Brief on Fact and Policy Issues, p. 18.

they are used, and opposes "bill-and-keep" arrangements. AT&T, however, requests general application of a bill-and-keep approach.

New York Telephone argues that bill-and-keep is inappropriate because the traffic exchange between two carriers is rarely in balance, and thus under bill-and-keep carriers would not be properly compensated. In fact, New York Telephone avers, in two years of experience in providing interconnection to carriers, results have been considerably skewed.

AT&T supports the bill-and-keep approach on the ground that it would reduce billing and collection costs that might otherwise pose a barrier to entry where traffic is in balance. To address New York Telephone's concern, AT&T proposes a monthly monitoring of usage, and a semi-annual true-up when traffic is out of balance by more than 10%.

The Act requires reciprocal compensation arrangements for the transport and termination of telecommunications,[1] and provides, in connection with the pricing standards to be followed in this arbitration, that we may consider "arrangements that afford the mutual recovery of costs through the offsetting of mutual obligations, including arrangements that waive mutual recovery (such as bill-and-keep arrangements)."[2] Thus, the Act is not a barrier to AT&T's request.

Although New York Telephone presents no evidence here to support its claim that traffic is generally out of balance between carriers, we are of the view that traffic cannot be expected to be in balance, and we have also emphasized that "[l]ocal exchange carriers are entitled to compensation for the costs of services provided to each other."[3] AT&T's proposal here

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[1] 47 U.S.C. §251(b)(5).

[2] 47 U.S.C. §252(d)(2)(A)(ii).

[3] Case 94-C-0095, Transition to Competition in the Local Exchange Market, Opinion and Order Adopting Regulatory

to track monthly usage, we note, tends to defeat the stated purpose of a bill-and-keep approach, namely, to reduce costs; usage must still be measured in any event.

As we have already determined, where carriers have not agreed otherwise, discrete charges should be applied, based on actual usage. AT&T's proposal to impose bill-and-keep as the method of mutual compensation recovery in its interconnection agreement is rejected.

Interim Rates

The parties have stipulated for this arbitration two issues:

(1) What are the standards for setting interim rates?

(2) Given those standards, what interim rates and various non-recurring charges are appropriate for network elements, combinations, and for interconnection?

Notably, this stipulation of the issues reflects recognition by the parties of our on-going investigation[1] of costs associated with unbundled network elements, and the ultimate determination of permanent rates in that proceeding. For any rates at issue here that are the subject of an on-going proceeding, the parties agree that the proceeding is the best forum for setting a permanent rate, and accordingly they have asked that interim rates be set here, subject to true-up. We agree, and all of the interim rates we set now will be subject to true-up later.

1. Network Elements and Combinations

Framework, Opinion No. 96-13 (issued May 26, 1996), mimeo p. 16.

[1] Cases 94-C-0095 et al., supra.

New York Telephone asks us to establish interim rates for network elements based on TELRIC studies it filed on September 30, 1996 in Cases 94-C-0095 et al.,[1] for the following elements: local switching, tandem switching, links, dedicated transport, common transport, signaling networks and Call-Related Database-Switch Query. New York Telephone claims to have prepared those studies in accordance with the pricing methodology prescribed in the FCC's Order.

New York Telephone has committed to providing by the end of this year TELRIC studies for the remaining unbundled elements identified by the FCC, which include: Operator Services and Directory Assistance, 911/E911, Busy Line Verify and Busy Line Verify and Interrupt, Port Additives, collocation, and Operational Support System charges. For these elements, New York Telephone proposes that for interim rates we use proxy rates established by the FCC.

For its part, AT&T recommends that we adopt interim rates for unbundled elements based on its own TELRIC (Hatfield model) cost studies. As an alternative, AT&T suggests that we may establish proxy rates based on the Order.

Each party is extremely critical of the other's cost studies and methodology. AT&T asserts that New York Telephone's proposed rates are not actually based on appropriate TELRIC methodology, and cannot properly form the basis for either interim or permanent rates.[2] Likewise, New York Telephone

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[1] It should be noted that New York Telephone prepared its recommendations before the stay of the FCC's pricing rules, and that in response to the stay, New York Telephone requested permission to file different proposals. Judge Harrison denied that request (October 24, 1996 letter to New York Telephone), since interim rates will be subject to true-up.

[2] For those elements that New York Telephone has yet to provide a cost study, AT&T asserts that New York Telephone has failed to meet its burden to provide interim rates and, accordingly, no interim rates are necessary or proper in such circumstances.

describes AT&T's studies as "seriously flawed," and asserts that AT&T's proposed rates would result in substantial under-recovery of costs. The FCC's proxy rates, New York Telephone continues, also are not reflective of its costs and would result in under-recovery of its costs.

We are not prepared to use the parties' cost studies for interim rates. Although each party argues that its own studies are proper, and though both purportedly use the same costing methods, nevertheless each party has produced widely disparate results and the differences have not been explained. Moreover, the accuracy and public interest implications of conflicting geographical deaveraging, developed in response to the now-stayed FCC pricing rules, needs to be examined.

Our previous actions in providing for competitive access have resulted in tariffed rates for many elements that already reflect our long-standing preference for cost-efficient prices that reflect forward-looking costs. Accordingly, we set interim rates here pursuant to New York Telephone's existing tariff rates where they are appropriately cost-based.[1] Where such rates are not in existence, we set rates on the best information available to us.[2] Our specific rates are shown in Appendix A; several of these are discussed below.

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[1] Where existing tariff rates have been adopted, we have in each instance determined that they are in compliance with the pricing standards of the Act (47 U.S.C. §252(d)).

[2] 47 U.S.C. §252(b)(4)(B).

a. Unbundled Loops

Rates for unbundled loops (links) are currently the subject of Case 94-C-0095. The parties propose geographically deaveraged loop rates[1] but, as discussed above, we are not introducing geographically deaveraged rates as interim rates in this arbitration. The current tariff rate, now effective on a temporary basis, was based on an incremental cost study. The current rate of $19.32 includes the NID, which will be removed, as discussed below.

b. Network Interface Device

New York Telephone currently has a NID rate on file in its general tariffs; these rates were last developed with reference to overall revenue requirements in a rate proceeding, and may not comport with the pricing standards of the Act. We will use a NID price of $.58/month proposed by AT&T in this proceeding as the interim rate.[2] Subtracting that from the current loop/NID rate of $19.32 yields an interim link rate of $18.74.

c. Local Switching

Local switching rates may be used in two contexts. First, there is a rate for local switching when it is used to terminate traffic. Local service switching rates used in this context were derived from a New York Telephone "total service" long run incremental cost study filed in an earlier proceeding.[3] Pending our determination of permanent local switching rates, we

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[1] Under New York Telephone's proposal, a two-wire, non-conditioned link rate would increase 58% in rural areas, and fall dramatically in urban areas.

[2] New York Telephone has not separately identified a charge for the NID.

[3] Case 28425, Pooling, Collocation and Access Rate Design, Opinion No. 92-13 (issued May 29, 1992).

will use the existing tariff rates on an interim basis, as shown in New York Telephone's 914 tariff.

Second, local service switching may be used as an element for providing switching service to retail customers. In that instance, the existing tariff rates consist of charges for ports, plus the applicable tariff rates for usage and features in New York Telephone's general tariff (the 900 tariff). Although the rates for business ports are cost based and comply with the Act, retail rates for usage and features were set in a general rate proceeding.

Accordingly, for interim local switching rates associated with the local switching element, we adopt rates for all port types (analog, digital, and ISDN) at the cost of a business port ($4.96/month)[1] plus usage and features rates set equivalent to the local switching termination charges in New York Telephone's interconnection tariff (the 914 tariff). New York Telephone had proposed separate additives to recover feature charges. However, those rates were established relative to tariff proxies that appear far higher than the TELRIC costs for additives New York Telephone also filed.[2] Indeed, New York Telephone may incur costs for such port "additives," but we have found its cost study an inadequate basis for setting rates here. Examination of the tariff rates for this and other additives, moreover, raises questions as to whether they are cost-based. Thus, the existing termination charges will be considered to include the feature functions envisioned as resident in the local switching element as defined by the FCC, and New York Telephone

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[1] Case 91-C-1174, Comparably Efficient Interconnection, Order Directing the Filing of Tariffs and Requesting Additional Comments (issued May 25, 1994), Attachment, p. 14.

[2] For example, New York Telephone proposed an intra-system intercommunication "additive" for "Centrex" ports of $10.12 per port per month, while its accompanying TELRIC study supports an additive of only $.94 per port per month.

will be prohibited from applying any additives above the port charge of $4.96/month.

d. Tandem Switching

For the reasons discussed above in connection with local switching, we are adopting interim rates for tandem switching at their currently effective tariff rate levels, as specified in New York Telephone's interconnection tariff (the 914 tariff).

e. Interoffice Transmission

There are no tariff equivalents at present for interoffice transmission; however, the rates for common transport may be derived from the existing tariff rates for tandem and local switched interconnections, and the dedicated transport rates filed by New York Telephone in its carrier access tariff only apply in competitive circumstances when an interconnector is present in the local or tandem switch. These rates are based on cost studies that, as discussed above, are suitable for setting rates in this arbitration; they are also consistent with the rates we are adopting here for other switching elements. These rates constitute the best available basis for interim interoffice transmission rates.

f. Signaling Networks and Call-Related Databases

New York Telephone and AT&T propose rates for signaling elements set at the outputs of their respective TELRIC studies. In the alternative, AT&T proposes rates set at the FCC tariff level, based on its review of New York Telephone's federal tariffs, which are stated below:

Signaling Link-Fixed:	$30.12 per link per month
Signaling Link-Per Mile:	$ 1.98 per link per month
STP Link Termination:	$71.48 per link per month
STP Port	$450 per month

In reply, New York Telephone urges that we not use the FCC proxies and set rates at the levels dictated by the TELRIC studies to avoid a windfall to competitors.

As discussed, we will not use the cost studies filed here for setting rates. Thus, based upon the best information available, rates for signaling will be set at the federal tariff levels proposed by AT&T as set forth above.

g. Operations Support Systems

Operations support activities are those "pre-ordering, ordering, provisioning, maintenance and repair, and billing functions" an incumbent LEC provides its competitors. New York Telephone proposes a structure for recovery of the costs of this element that would consist of a monthly recurring charge of $1,000, ostensibly for access to its "direct customer access system," and $.60 per transaction to recover "usage" sensitive costs. AT&T has not proposed a charge for this element, but it argues that New York Telephone's rates are arbitrary, and that the costs are already reflected in AT&T's rates for other elements. The issue of charges to recover the costs for activities New York Telephone's competitors cause it to incur is discussed in the section on miscellaneous and non-recurring charges. To the extent those charges provide for recovery of these costs, it is inappropriate to set discrete and possibly duplicative rates for "operations support." Thus, we resolve this issue by directing New York Telephone to apply a charge of zero for recurring and per transaction operations support. It may, subject to limitations for combinations discussed below, apply an interim charge to usage based network elements of $.0014 per minute, to recover costs associated with administrative support in those instances.[1]

h. Combinations of Elements

AT&T has proposed establishment in this arbitration of rates for combinations of elements. The parties agree that such rates should reflect the addition of appropriate rate element rates. However, we recognize that rates for individual element charges include billing and administration support costs, which we estimate on the basis of available cost studies to be

[1] Case 94-C-0095, Transition to Competition, Order Approving Tariff Filing on a Temporary Basis (issued June 20, 1996).

approximately $.0014/minute of use (MOU), regardless of the time of day. We will therefore set a separate operations support charge of $.0014/MOU and reduce the rates for the individual elements accordingly. New York Telephone is further directed to make appropriate adjustments in rates for element combinations to avoid multiple recovery of administrative costs.

2. Non-Recurring Charges

New York Telephone has proposed a variety of miscellaneous, non-recurring charges to "recover costs of services and work activities, not identified by the FCC, related to the provision of unbundled elements and other services."[1] According to New York Telephone, these are "readily identifiable" activities, with readily identifiable costs, that are not included in any of the defined network elements.[2] New York Telephone indicates that it has not yet performed cost studies for any of these non-recurring activities, but it suggests that a review of its proffered TELRIC cost studies for elements will show that costs associated with the itemized non-recurring, miscellaneous charges are not included in those studies.

At issue are the following non-recurring and miscellaneous charges:

1. Bill record charges for records provided
2. Duplicate bill/duplicate record charges
3. Database "dip" charges by database
4. Operations Support System (OSS) access charges, by OSS
5. Emergency Bulletin Service (EBS)
6. Data entry charge

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[1] New York Telephone's Initial Brief on Fact and Policy Issues, p. 41.

[2] New York Telephone's Reply Brief on Fact and Policy Issues, p. 22.

7. Busy Line Verification/Busy Line Verification Interrupt (BLV/BLVI)

8. 911/E911 charges

9. AIN/IN Query launch charges by query

10. New rate elements, OSS, and databases

11. Special Construction/Individual Case Basis (ICB) request

12. Non-recurring charges:

    a. Service order
    b. Central Office dispatch
    c. Outside dispatch
    d. Testing
    e. Translation

13. Record Change charge

14. Collocation -- any extra work

AT&T asserts that this is a group of "enormous and unjustified non-recurring charges" that will effectively circumvent the pricing of network elements on the basis of efficient, forward-looking costs, and will be used to frustrate or prevent meaningful competition.[1] In AT&T's view, virtually all of these activities and their related costs are associated with the FCC's OSS network element, an element, as discussed above, for which New York Telephone has yet to submit an appropriate cost study. Some of these costs may be reflected in prices for other network elements as well, AT&T posits. Thus, AT&T cites what it considers to be a serious potential for double or multiple recovery of the costs associated with these activities. AT&T perceives a general failure by New York Telephone to provide data necessary to perform studies of the listed non-recurring activities, and asks us to require New York

[1] AT&T's Initial Brief on Fact and Policy Issues, p. 21.

Telephone to provide detailed, understandable, and auditable cost studies for these items.

AT&T is also critical of the pricing theory underlying New York Telephone's proposals. Noting that the list includes both developmental and transactional non-recurring activities, AT&T asserts that generally the non-recurring developmental or investment costs should be included in the charges for the elements with which they are associated, and recovered "just like other 'one-time' costs of constructing the network--i.e., from each carrier, including incumbent LECs, on the basis of their relative use of the network."[1]

In response, New York Telephone contends that the listed items are for activities that are not included in the FCC's definition for an OSS element; if its cost studies show that certain of these costs are properly included in the OSS element, however, New York Telephone states that it will restructure its charges accordingly. New York Telephone also argues that TELRIC cost studies may not be appropriate for some of the activities on its list, such as the preparation of a duplicate bill. New York Telephone also argues against AT&T's contention that costs should be spread across all cost causers, including incumbent LECs; it claims that some of its expenditures, such as for the Direct Customer Access System (DCAS), are solely for the use of its competitors.

It is clear to us that the FCC intended that the OSS elements include costs associated with establishing interconnection capability (e.g., computers, administrative support, billing, maintenance, and the like). The extent to which non-recurring costs are to be included in the element, however, is not as clear. We must await our review of New York Telephone's cost study submissions in this area before we can sensibly evaluate AT&T's claim that certain costs are already

[1] Ibid., pp. 23-24.

included in the OSS element or other elements and, therefore, that separate charges are unwarranted.

New York Telephone, moreover, has inadequately defined and explained the need for each of the dozens of charges it proposes, and has not justified the proposed rate levels for them. We cannot be certain in some instances what the charges are designed to recover or whether certain costs are already recovered in other rates. Thus, AT&T's concern about potential double recovery is warranted.

In these circumstances, we are establishing interim rates for non-recurring costs,[1] limited to existing service connection and non-recurring charges already present in New York Telephone's intrastate tariffs. Where the tariff would clearly apply a charge to a similarly situated retail customer (900 tariff), reseller (915 tariff), facilities-based local carrier (914 tariff), or interexchange carrier (913 tariff), New York Telephone may apply that charge as the interim rate under this agreement, subject to the limitations stated above. Where the tariff does not provide for a charge, New York Telephone may either not charge for the activity, or charge a zero rate if it believes it will ultimately be able to support a discrete charge as a permanent rate. In setting interim rates in this fashion, we are acting on the basis of the best information available to us at this time.

3. Interconnection Rates

Interconnection rates in this context refers to the mutual compensation rates AT&T and New York Telephone pay each other for completing each other's calls. Rates for reciprocal compensation are equivalent to the sum of the rates for the network elements involved in the transportation and termination

[1] In other sections, interim rates for certain miscellaneous activities (911/E911, Collocation, OSS, etc.) are separately addressed.

of traffic--switching (local and tandem) and interoffice transmission. The parties have stipulated interconnection rates as an issue to be determined in this arbitration.

Arrangements for payment of mutual compensation are currently in place in the 914 tariff. The rate structure employed in the tariff rates holds each LEC responsible for delivery of its customers' traffic to a designated point of termination (POT), either the tandem or the end office. The mutual compensation rates, then, cover the cost of the trunk termination, the switching, and the line port provided by New York Telephone. Where tandem functions are used, mutual compensation would include the tandem termination, tandem switching, and transport between the tandem and the end office.

As discussed above, neither company's cost studies provide an appropriate basis for setting interim rates for network elements; therefore, they are rejected for mutual compensation rates. The interim rates we have adopted for the appropriate elements will be used instead.

New York Telephone points out that in interconnection agreements it has reached with several competitors, the POT has been redefined, so that each local carrier will have two points within the LATA where physical "hand-offs" are always made. LECs then charge each other for the rate elements described above, assuming the use of the other LEC's tandem termination, tandem switching, common transport, end office termination, local switching, and end office line port. This interconnection (mutual or reciprocal compensation) rate structure is suggested by New York Telephone for this arbitration; it is acceptable and is adopted.

Service Standards

AT&T asks for service standards in connection with the provision by New York Telephone of unbundled elements and

combinations.[1] AT&T points out that the Act places upon incumbent LECs the duty to provide interconnection "that is at least equal in quality to that provided by the local exchange carrier itself"[2] as well as "nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory . . . ."[3] Service quality for interconnection and elements is arbitrable, AT&T asserts, because parties to interconnection agreements may seek terms and conditions that will give specificity to these general rights, and permit monitoring and enforcement of such conditions. In fact, AT&T states, the provision of wholesale service and network elements by New York Telephone is critical to its success, and therefore firm contractual performance commitments, with automatic remedies, are needed.

AT&T goes on to argue that we must impose "reasonably explicit service standards" in this arbitration.[4] AT&T provides a detailed set of such proposed performance categories and criteria, ranging from ordering and provisioning to facilities maintenance, and data accuracy, and also provides proposed penalties for failure to meet the standards. AT&T asserts that

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[1] Service quality was initially raised here in connection with unbundled elements and combinations, and the quality of services sold for resale was not raised. New York Telephone distinguishes performance criteria related to resale from criteria related to unbundled elements, and argues that it will provide all services to resellers on the same basis that it provides these services to its end users. End user service quality is, of course, already well-defined and regulated. If there are any special resale service quality issues that are not associated with the provision of the underlying service, however, they will be considered in this context.

[2] 47 U.S.C. §251(c)(2)(C).

[3] 47 U.S.C. §251(c)(3).

[4] AT&T's Initial Brief on Law and Policy, p. 56.

New York Telephone has not responded to its specific proposals during negotiations, offering no more than a promise of "parity" which, it contends, is insufficient and unenforceable.

New York Telephone points out that service standards were not directly addressed by either the Act or the FCC. While it expects that performance standards for the provision of unbundled elements will at some point be developed and implemented, New York Telephone continues, the matter cannot be decided here because there is no record from which we could establish service standards. New York Telephone notes our previously stated intention to institute a proceeding to address this matter,[1] and argues that generic service standards for the industry should be set in that proceeding, subject to a public interest standard.

New York Telephone says it supports the development of reasonable performance criteria for unbundled elements, but argues that while it has some operating experience with providing some elements, with others it does not. As to those elements where experience is lacking, New York Telephone says 12 to 18 months of operating experience will be needed before reasonable standards and corresponding liabilities can be developed.

Both parties raise valid points. We agree with AT&T that reasonable, measurable performance standards for the provision of network elements, with appropriate remedies for failure, are critical to the operations of New York Telephone's competitors. On the other hand, New York Telephone's position, that it is premature to define interconnection performance in light of the fact that provision of elements is a new venture, is equally sound. Thus, it would be premature to adopt detailed performance standards and remedies at this juncture; however, New York Telephone's proposal to develop service quality criteria over the next year or so would unduly prolong that effort.

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[1] Cases 94-C-0095 et al., supra, the June 25 order, p. 31.